

HON. WILLIAM FREMMING NIELSEN

1 Grant S. Degginger, WSBA No. 15261
2 Rehman H. Bashey, WSBA No. 21808
3 LANE POWELL SPEARS LUBERSKY LLP
4 1420 Fifth Avenue, Suite 4100
Seattle, WA 98101-2338
(206) 223-7000
5 Attorneys for Defendant
Lexington Insurance Company

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NOV 30 2001

JAMES R. LARSEN, CLERK
DEPUTY
SPokane, Washington

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON AT SPOKANE

10 CITY OF SPOKANE, a municipal
corporation,

11 Plaintiff,

12 v.

13 UNITED NATIONAL INSURANCE
COMPANY, a foreign corporation;
LEXINGTON INSURANCE
COMPANY, a foreign corporation; and
GENESIS INSURANCE COMPANY, a
foreign corporation,

16 Defendants.

17 } No. CS-01-0069-WFN

18 } DEFENDANT LEXINGTON'S
19 } MOTION TO FILE OVERLENGTH
20 } BRIEF ON SUMMARY
JUDGMENT

17 I. RELIEF REQUESTED

18 Defendant Lexington Insurance Company ("Lexington") moves the Court for
19 an order under LR 7.1(f) permitting the filing of a memorandum in support of a
20 motion for summary judgment which exceeds 20 pages.

21 II. STATEMENT OF FACTS

22 This is an insurance coverage action involving application of an absolute
23 pollution exclusion. Lexington is filing a motion for summary judgment of dismissal
24 under Federal Civil Procedure 56(c) and LR 56.1. Lexington is filing its
25
26

DEFENDANT'S MOTION TO FILE OVERLENGTH BRIEF - 1

LANE POWELL SPEARS LUBERSKY LLP

SUITE 4100

1420 FIFTH AVENUE

SEATTLE, WA 98101

(206) 223-7000

1 memorandum contemporaneously with this motion. The memorandum is 28 pages in
2 length.

III. ISSUE PRESENTED

4 Should Lexington be allowed leave to file a memorandum of 28 pages to
5 sufficiently address the issues in its motion for summary judgment?

IV. EVIDENCE RELIED UPON

7 Lexington relies upon the following evidence:

8 1. Defendant Lexington Insurance Company's Memorandum in Support of
9 Motion for Summary Judgment Regarding the Absolute Pollution Exclusion; and

10 2. Declaration of Rehman H. Bashey in Support of Motion to File
11 Overlength Brief on Summary Judgment.

V. ARGUMENT

Local Rule 7.1(f) provides that: "Memoranda relating to motions for summary judgment or other dispositive motions shall not exceed twenty (20) pages without prior approval of the court." Waiver of page limitations may be granted upon motion demonstrating "good cause." LR 7.1(f). As set forth more fully in the attached Declaration of Rehman H. Bashey, there are numerous regulations, exhibits, and cases which are relevant to this motion and merit detailed discussion in reviewing the subject pollution exclusion.

VI. PROPOSED ORDER

21 A proposed order is attached.

29th

DATED this 29th day of November, 2001.

2 LANE POWELL SPEARS LUBERSKY LLP

3 By 

4 Grant S. Degginger, WSBA No. 15261
5 Rehman H. Bashey, WSBA No. 21808
6 Attorneys for Defendant Lexington Insurance
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DEFENDANT'S MOTION TO FILE OVERLENGTH BRIEF - 3

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LANE POWELL SPEARS LUBERSKY LLP
SUITE 4100
1420 FIFTH AVENUE
SEATTLE, WA 98101
(206) 223-7000

HON. WILLIAM FREMMING NIELSEN

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2 Rehman H. Bashey, WSBA No. 21808
3 LANE POWELL SPEARS LUBERSKY LLP
4 1420 Fifth Avenue, Suite 4100
5 Seattle, WA 98101-2338
6 (206) 223-7000

7

8 Attorneys for Defendant
9 Lexington Insurance Company

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13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF WASHINGTON
15 AT SPOKANE

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17 CITY OF SPOKANE, a municipal
18 corporation,

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22 UNITED NATIONAL INSURANCE
23 COMPANY, a foreign corporation;
24 LEXINGTON INSURANCE
25 COMPANY, a foreign corporation; and
26 GENESIS INSURANCE COMPANY, a
foreign corporation,

17 Defendants.

18

19 No. CS-01-0069-WFN

20

21 **AFFIDAVIT OF SERVICE**

22

23 STATE OF WASHINGTON)
24)ss.
25 COUNTY OF KING)

26

27 Cheryl Lindsey Seelhoff, being first duly sworn upon oath, declares as follows:

28

29 On November 29, 2001, I caused a copy of Defendant Lexington's Motion to
30 File Overlength Brief on Summary Judgment to be hand delivered by ABC Messenger
31 Service to the following addresses:
32

33

34 Affidavit of Service --1

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36 019369.0170/875190.1

37

38 LANE POWELL SPEARS LUBERSKY LLP
39 SUITE 4100
40 1420 FIFTH AVENUE
41 SEATTLE, WA 98101
42 (206) 223-7000

1 Plaintiff's Counsel:

2 Richard C. Robinson
3 Jeffrey P. Downer
4 Christopher S. Clemenson
5 Lee, Smart, Cook, Martin & Patterson
6 800 Puget Sound Plaza
1325 Fourth Avenue
Seattle, WA 98101-2585

7 Attorney for United National Insurance Co.

8 David D. Tewell
9 Tewell & Findlay
1144 Union Bank of California Center
10 900 Fourth Avenue
11 Seattle, WA 98164-1011

12 Attorney for Genesis Insurance Co.

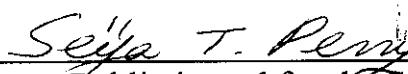
13 Thomas R. Luciani
14 Stamper Rubens Stocker & Smith
720 W. Boone Ave., Ste. 200
15 Spokane, WA 99201-2500

16 I declare under penalty of perjury that the foregoing statements are true and
17 correct.

18 Signed at Seattle, Washington this 29th day of November 2001.
19

20 
21 Cheryl Lindsey Seelhoff

22 Subscribed to and sworn before me this 29th day of November, 2001.
23

24  SEIJA T. PERRY
25 Notary Public in and for the State of
Washington, residing at Federal Way.
26 My Commission expires: 5-15-04



Affidavit of Service --2

019369.0170/875190.1

LANE POWELL SPEARS LUBERSKY LLP
SUITE 4100
1420 FIFTH AVENUE
SEATTLE, WA 98101
(206) 223-7000